

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE BOARD OF DIRECTORS )  
FOR UTILITIES OF THE DEPARTMENT OF )  
PUBLIC UTILITIES OF THE CITY OF )  
INDIANAPOLIS, AS SUCCESSOR TRUSTEE OF )  
A PUBLIC CHARITABLE TRUST, D/B/A )  
CITIZENS THERMAL ENERGY, FOR )  
APPROVAL OF A POWER PURCHASE )  
AGREEMENT WITH INDIANAPOLIS POWER & )  
LIGHT COMPANY )

CAUSE NO. 43117

APPROVED: MAR 22 2007

**BY THE COMMISSION:**

**Gregory D. Server, Commissioner**

**Abby R. Gray, Administrative Law Judge**

On September 13, 2006, the Board of Directors for Utilities of the Department of Public Utilities of the City of Indianapolis, as Successor Trustee of a Public Charitable Trust, D/B/A Citizens Thermal Energy ("Petitioner" or "Citizens") filed with the Indiana Utility Regulatory Commission ("Commission") its Petition in this Cause requesting the Commission to approve a Power Purchase Agreement between Petitioner and Indianapolis Power & Light Company ("IPL") (the "Proposed Agreement"). The Proposed Agreement is a replacement agreement to an existing agreement between Petitioner and IPL that was approved by the Commission on October 4, 2000, in Cause No. 41716 (the "Electricity Contract").

On December 19, 2006, an Attorneys' Conference was held in this Cause, and a procedural schedule was agreed to by all parties present. Consequently, the Presiding Officers made an entry on January 2, 2007, and established a procedural schedule for this Cause. In accordance with the established procedural schedule, Petitioner prefiled its prepared case-in-chief testimony and exhibits on January 19, 2007.

Pursuant to notice as provided by law, proof of which was incorporated into the record and placed in the Commission's official files, a public evidentiary hearing was commenced on February 8, 2007, at 9:30 a.m. in Room E306, Indiana Government Center South, Indianapolis, Indiana. Petitioner and the Indiana Office of the Utility Consumer Counselor ("OUCC") appeared at that hearing. No other party intervened in this Cause or participated at the February 8, 2007, hearing. At the hearing, the prefiled testimony and exhibits described above were admitted into the record without objection. Counsel for the OUCC stated that it had no objection to the Commission granting the relief requested in the Petition.

Based on the applicable law and the evidence of record, the Commission now finds:

1. **Notice and Jurisdiction.** Notice of the public evidentiary hearing held on February 8, 2007, was given as required by law. Petitioner is a municipal steam utility subject to the jurisdiction of this Commission in the manner and to the extent provided by the laws of the State of Indiana, including certain sections of the Public Service Commission Act, as amended. Therefore, the Commission has jurisdiction over the parties and the subject matter of this proceeding.

2. **Petitioner's Steam Business.** Citizens is a municipal steam utility that maintains its principal offices and provides steam service in Marion County, Indiana. It owns, operates, manages and controls plant and equipment used for the production, distribution and furnishing of steam utility service to the public. Citizens provides steam service to approximately 220 customers in the City of Indianapolis through steam production and distribution facilities purchased in November 2000 from IPL. Citizens' purchase of those facilities from IPL was approved by this Commission in its October 4, 2000 Order in Cause No. 41716.

3. **Petitioner's Testimony.** Mr. James O. Dillard, Petitioner's General Manager, Facilities and Engineering, provided an overview of the Proposed Agreement and the Electricity Contract it replaces. Mr. Dillard stated that the Electricity Contract originated as part of Citizens' acquisition of the Perry K steam production plant and other thermal energy assets from IPL in November 2000. He explained that the purpose of the Electricity Contract was to allow Citizens to continue utilizing the Perry K plant's electric generating units in basically the same way IPL utilized those units prior to the acquisition. Prior to the acquisition, IPL utilized one of the electric generating units (the "House Turbine") to generate electricity used to provide internal power for the Perry K plant. Citizens continues to use the House Turbine to produce power used internally at the Perry K plant. The other electric generating unit ("Unit No. 4") was used by IPL to generate electricity for its electric distribution system. Under the Electricity Contract, Citizens has continued to make electricity generated by Unit No. 4 available to IPL. The Electricity Contract also governed IPL's sales of electricity to Citizens for use at the Perry K plant.

Mr. Dillard testified that the Commission, in its October 4, 2000 Order in Cause No. 41716, approved the Electricity Contract, finding its rates, charges, terms and conditions reasonable. Additionally, the Commission declined to exercise certain jurisdiction over Citizens' sales of electricity to IPL. Specifically, the Commission exempted Citizens' operation of Unit No. 4 to generate electricity to be sold to IPL from any certificate of need requirements. That exemption was conditioned on Citizens' continued operation of Unit No. 4 at no more than 10 MW.

Mr. Dillard explained that Unit No. 4 is still capable of producing electricity, and the Proposed Agreement provides Citizens a viable option to sell any electricity generated with that unit. However, Mr. Dillard stated that he does not expect Unit No. 4 will operate on a significant or frequent basis. He further testified that due to the age of Unit No. 4 and other operational constraints, Citizens will continue to operate Unit No. 4 at no more than 10 MW.

Mr. Dillard stated that IPL's sales of electricity to Citizens will not be governed by the Proposed Agreement. Rather, pursuant to the Electricity Contract effective November 21, 2005, Citizens began purchasing electricity from IPL under IPL's standard tariff rates and charges.

With respect to sales of electricity by Citizens to IPL, Mr. Dillard provided a comparison of the terms of the Electricity Contract and the Proposed Agreement. Under the Proposed Agreement, IPL will pay one price for "Normal Generation" which is defined in the Proposed Agreement as "the output of the [Unit No. 4] Generator as metered by IPL, excluding all Dispatch Generation." The Proposed Agreement's Normal Generation rate, which is \$0.0102/kWh, is unchanged from the corresponding rate in the Electricity Contract. IPL will pay a higher price for "Dispatch Generation"; which is defined as "the output of [Unit No. 4] as metered by IPL during a Dispatch Period." A "Dispatch Period" is defined in the Proposed Agreement as "a period of time specified by IPL during which [Citizens] agrees to maximize the operation of [Unit No. 4]." The Proposed Agreement's Dispatch Generation rate, which is \$0.075/kWh, also is unchanged from the corresponding rate in the Electricity Contract. The term of the Proposed Agreement extends until November 19, 2008; however, it may terminate prior to that date upon the occurrence of certain specified events, including upon either party providing 12 months advance written notice to the other party.

Finally, Mr. Dillard testified that the Proposed Agreement will have a minimal impact on steam customer bills. Mr. Dillard stated that the only significant difference between the Proposed Agreement and the Electricity Contract that will have an effect on customer bills is the difference Citizens will pay for electricity purchased from IPL, which effect will not be realized prior to a final order in Citizens' pending base rate case.

**4. Discussion and Findings.** As noted above, in Cause No. 41716, we found the rates, charges, terms and conditions of the Electricity Contract reasonable. We find that the Proposed Agreement, which is substantially similar to the Electricity Contract, also is reasonable. While the use and implementation of the Proposed Agreement may be limited and insignificant relative to Citizens' normal steam business activities, the continued use and availability of the Unit No. 4 Turbine will provide Citizens flexibility to utilize the future steam energy options as cost effectively as possible. We further find that Unit No. 4 continues to qualify for the exception from certificate of need requirement available to municipally owned utilities installing a generating facility with a capacity of 10,000 kilowatts or less.

**IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:**

1. The Proposed Agreement, which we find to be reasonable, is hereby approved.
2. Citizens is hereby authorized and directed to implement the terms of the Proposed Agreement, as executed by Citizens and IPL.
3. Prior to the expiration or termination of the Proposed Agreement, Citizens shall notify the Commission and seek appropriate approval of any succeeding agreement.

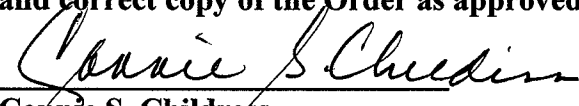
4. In accordance with Indiana Code § 8-1-2-70, Petitioner shall pay the following itemized charges within twenty (20) days from the date of this Order to the Secretary of this Commission, as well as any additional costs which were or may be incurred in connection with this Cause:

|                    |                  |
|--------------------|------------------|
| Commission charges | \$ 465.22        |
| OUCC charges       | \$ 359.67        |
| <b>TOTAL</b>       | <b>\$ 824.89</b> |

5. This Order shall be effective on and after the date of its approval.

**GOLC, LANDIS, SERVER AND ZIEGNER CONCUR; HARDY ABSENT:**  
**APPROVED: MAR 22 2007**

**I hereby certify that the above is a true  
and correct copy of the Order as approved.**

  
**Connie S. Childress**  
**Acting Secretary to the Commission**